

Supreme Court

No. 2000-2

EXECUTIVE ORDER

Pursuant to the authority vested in me by § 8-15-2 of the General Laws of the State of Rhode Island 1956 (1985 Reenactment), and in order to provide competent representation, to ensure that the distribution of court appointments is made in a fair and equitable fashion, to provide a uniform and efficient system for making such appointments, and to protect the public interest, it is hereby ordered that the Supreme, Superior, District, Family, and Workers' Compensation Courts each establish and monitor rotating lists of qualified attorneys available for court appointments in the cases that fall within their respective jurisdictions.

In order to achieve the above-mentioned goals, each court shall accept the requests of attorneys to be assigned to the panels for appointment to the cases that fall within its jurisdiction; shall determine if said attorneys are qualified for the assignments requested, in accordance with the criteria set forth below; and with the concurrence of the chief judge or presiding justice, shall assign those found qualified to the panels requested.

Requests shall be made on forms provided by each court. Such requests shall be accompanied by an affidavit, averring to compliance with the qualifications for said appointment and agreeing to report forthwith by supplemental affidavit any changes in circumstances from those set forth therein.

In order to remain on a panel, a request for recertification shall be submitted. Such requests shall be on forms also provided by each court and shall be filed by July 1 of each year. Such requests must demonstrate that the attorney has fulfilled the continuing education requirements set forth below by completing courses that have been approved by the court for this purpose. Attorneys may utilize carry-over credits from the preceding year as currently allowed by the Mandatory Continuing Legal Education program.

All panels shall be structured to include as large a list of qualified and willing attorneys as is feasible. Such panels may be subdivided by geographical areas relevant to court jurisdictions, including county courts and divisions, if appropriate. Appointments from the respective panels shall be made in accordance with a rotating system. However, in the discretion of the court, an attorney who has been previously appointed to represent a party may be appointed out of rotation to represent that party in any matter arising out of the same transaction or in other circumstances where savings of time and expense may be achieved. Any other deviation from the rotating system shall be occasioned only when specialized expertise, conflicts of interest, or emergency needs are factors. When deviations do occur, such reasons shall be noted by the judge or clerk in the case file.

Each chief judge or presiding justice shall conduct an annual review of his or her court's appointment process and shall file a report in December of each year with the Chief Justice of the Supreme Court.

QUALIFICATIONS FOR COURT APPOINTMENT

GENERAL PREREQUISITES: To qualify for any court appointment, an attorney shall be required (1) to be a member of the Rhode Island Bar; (2) to have in effect legal malpractice insurance in a minimum amount of \$100,000 per claim/\$300,000 aggregate with a carrier licensed within the State of Rhode Island; (3) in matters that may involve the handling and managing of funds, to acquire bonding by a surety bond in an amount equal to the total funds being managed; and (4) to be available to act as a mentor for attorneys seeking to qualify for court appointment.

The categories of cases for which separate panels shall be created and maintained, and the specific qualifications for appointment to each, shall be as follows.

SUPREME COURT

PREREQUISITE: Annual completion of six hours of continuing legal education in criminal law and procedure.

1. Criminal Appeals

- a. Member of the Rhode Island Bar for at least five years.
- b. Service as a law clerk to a justice of the Supreme Court, or
- c. Prior experience as a staff attorney with the Supreme Court, or
- d. Prior experience in the argument of at least two appeals, whether civil or criminal.

SUPERIOR COURT

A. CRIMINAL MATTERS

PREREQUISITE: Annual completion of six hours of continuing legal education in criminal law and procedure.

1. Murder cases

- a. Member of the Rhode Island Bar for at least five years.
- b. Prior representation of any party in a murder trial to verdict, or
- c. Prior representation of any party in at least two murder trials to verdict as associate counsel under the supervision of a mentor attorney.

2. Class-one felonies (felonies carrying a penalty of more than ten years' imprisonment)

- a. Member of the Rhode Island Bar for at least three years.
- b. Prior representation of any party in at least three class-one felony trials to verdict, or
- c. Prior representation of any party in at least three class-one felony trials to verdict as associate counsel under the supervision of a mentor attorney

3. Class-two felonies (felonies carrying a penalty of imprisonment of ten years or less)

- a. Member of the Rhode Island Bar for at least three years.
- b. Prior representation of any party in at least three felony trials to verdict, or
- c. Prior representation of any party in at least three felony trials to verdict as associate counsel under the supervision of a mentor attorney.

4. Misdemeanors

- a. Member of the Rhode Island Bar for at least three years.
- b. Prior representation of any party in at least five cases to completion, including pretrial dispositions, or
- c. Prior representation of any party in at least five cases to completion including pretrial disposition as associate counsel under supervision of a mentor attorney.

5. Failure to pay fines and/or costs or restitution

PREREQUISITE - Attorneys who are appointed to this panel shall complete annually three hours of continuing legal education in criminal law and procedure.

- a. Member of the Rhode Island bar for at least one year.
- b. One year of general litigation experience.

Appointments in other miscellaneous Superior Court criminal matters (Rule 35 motions, postconviction relief) shall be based on the seriousness of the underlying charge. However, appointments in postconviction-relief matters involving first or second degree murder charges shall be made from the class-one felony panel.

B.CIVIL MATTERS

PREREQUISITE: Annual completion of six hours of continuing legal education in civil law and procedure.

1. Guardians ad litem/personal injury actions

- a. Member of the Rhode Island Bar for at least five years.
- b. Concentration of the attorney's law practice in the field of personal injury law.
- c. In all such appointments the parties can, by agreement, recommend to the court a person acceptable to the parties to serve as guardian ad litem. The person need not be on the list of qualified attorneys maintained by the court.

2. Guardians ad litem/probate matters

- a. Member of the Rhode Island Bar for at least five years.
- b. Concentration of the attorney's law practice must involve probate matters.
- c. In all such appointments the parties can, by agreement, recommend to the court a person acceptable to the parties to serve as guardian ad litem. The person need not be on the list of qualified attorneys maintained by the court.

3. Commissioners for real estate

- a. Member of the Rhode Island Bar for at least five years.
- b. Concentration of the attorney's practice must be in real estate, including the handling of title searches and closings, as well as familiarity with the requirements for title-insurance policies, marketability of title for insurance purposes, and proof of errors and omission coverage with real estate riders.

4. Receivers/Trustees

- a. Member of the Rhode Island Bar for at least five years.
- b. Substantial experience and practice in receivership, creditors' rights, insolvency and/or bankruptcy matters.

5. Title Attorneys/Tax Cases -- Petitions to Foreclose Equities of Redemption

- a. Member of the Rhode Island bar for at least five years.
- b. Two years experience in examining titles incident to real estate conveyances or in examining titles for petitions to foreclose equities of redemption.

6. Guardians Ad Litem and Attorneys appointed pursuant to the Soldiers and Sailors Civil Relief Act of 1940, as amended

- a. Member of the Rhode Island bar for at least five years.
- b. Experience in real estate law, municipal tax law, and title searches.

Attorneys for petitioners may suggest title attorneys, guardians ad litem, and/or attorneys to be appointed pursuant to the Federal Soldiers and Sailors Civil Relief Act from the list as maintained by the Superior Court but need not do so on a rotating basis.

DISTRICT COURT

PREREQUISITE: Annual completion of three hours of continuing legal education in criminal law and procedure.

1. Felonies

See Superior Court requirements. When District Court judges shall make appointments in felony matters, they shall do so from the panel of attorneys available for appointment in this category in Superior Court.

2. Misdemeanors

- a. Prior representation of any party in at least five cases to completion, including pretrial dispositions, or
- b. Prior representation of any party in at least five cases to completion including pretrial disposition as associate counsel under the supervision of a mentor attorney.

3. Violation of court orders for the payment of fines, costs and/or restitution

- a. Member of the Rhode Island bar for at least one year.
- b. One year of general litigation experience.

4. Guardians, Commissioners for real estate, and Receivers/ Trustees

See Superior Court requirements. District Court judges shall make appointments in these matters from the panels of available attorneys used by Superior Court.

FAMILY COURT

PREREQUISITE: Annual completion of three hours of continuing legal education in family law and procedure with an emphasis on the specific area of appointment.

1. Guardians

No additional requirements beyond the annual completion of three hours of continuing legal education in Family Law and Procedure.

2. Dependency/Neglect/Abuse Cases

- a. Prior representation of any party in at least three neglect or abuse cases from initiation to completion of the action, or
- b. Prior representation of any party in at least three dependency/abuse/neglect cases from initiation to completion of the action as associate counsel under the supervision of a mentor attorney.

3. Termination of parental rights cases

- a. Prior representation of any party in at least three trials to a verdict, one of which must involve a termination of parental rights, or
- b. Prior representation of any party in at least three trials to a verdict, one of which must involve a termination of parental rights as associate counsel under the supervision of a mentor attorney.

4. Wayward/delinquency cases

- a. Prior representation of any party in at least three wayward/delinquency cases from initiation to completion of the action, or
- b. Prior representation of any party in at least three wayward/delinquency cases from initiation to completion of the action as associate counsel under the supervision of a mentor attorney.

5. Waiver hearings/certification hearings/jury trials

- a. Prior representation of any party in at least three jury trials to a verdict, or
- b. Prior representation of any party in at least three jury trials to a verdict as associate counsel under the supervision of a mentor attorney.

6. Violation of court orders for child and/or spousal support

- a. Member of the Rhode Island bar for at least one year.
- b. One year of litigation experience in the Family Court.

7. Adult Criminal Cases

PREREQUISITE - Attorneys who are appointed to this panel shall complete annually six hours of continuing legal education in criminal law and procedure.

- a. Member of the Rhode Island Bar for at least three years.
- b. Prior representation of any party in at least three felony trials to verdict, or
- c. Prior representation of any party in at least three felony trials to verdict as associate counsel under the supervision of a mentor attorney.
- d. Prior representation of any party in at least three Family Court trials involving either a child abuse or neglect case to verdict or decision.

8. Commissioners for real estate

- a. Member of the Rhode Island Bar for at least five years.
- b. Concentration of attorney's practice in real estate, including the handling of title searches and closings, as well as familiarity with the requirements for title insurance policies, marketability of title for insurance purposes, and proof of errors and omission coverage with real estate riders.

WORKERS' COMPENSATION COURT

PREREQUISITE: Annual completion of three hours of continuing legal education in workers' compensation law and procedure.

1. Pro se appointments

- a. Member of the Rhode Island Bar for at least three years.
- b. Prior representation of petitioners or respondents in at least five workers' compensation cases from pretrial dispositions through trial decision and decree within the past twelve months.

2. Guardians ad litem

- a. Member of the Rhode Island Bar for at least three years.
- b. Prior representation of petitioners or respondents in at least five workers' compensation cases from pretrial dispositions through trial decision and decree within the past twelve months.
- c. In all such appointments the parties can, by agreement, recommend to the court a person acceptable to the parties to serve as guardian ad litem. The person need not be on the list of qualified attorneys maintained by the court.

FEE SCHEDULE

The rates of compensation to be paid by the court to court-appointed counsel shall not differentiate between in-court and out-of-court time. In addition to the fees set forth below, counsel shall be entitled to all reasonable expenses of litigation including cost of transcripts, expert witness fees, investigators' fees, and fees for service of subpoenas in those instances where subpoenas have not been served by court order without cost. Application for expert witness authorization may be made ex parte without notification to the Attorney General or other adverse parties.

The thresholds and flat fees set by this schedule shall apply to all the time spent and all the hearings required in a particular case to reach adjudication and shall include all postdisposition efforts. In cases wherein the fees sought are less than the threshold, approval for payment shall be given by the trial justice or the judge before whom the matter was disposed. Where the fees sought are above the threshold, the trial justice or judge at disposition shall make a recommendation regarding the advisability of exceeding the threshold, but the final determination of payment shall be made by the chief judge or presiding justice of the court involved.

The fee schedule shall be as follows:

A. SUPREME COURT		
1. Criminal Appeals	\$50/hour	\$2,000 threshold
B. SUPERIOR COURT		
1. Class-one felonies and murder cases	\$50/hour	\$5,000 threshold
2. Class-two felonies	\$35/hour	\$2,500 threshold
3. Misdemeanor appeals	\$30/hour	\$750 threshold
4. Fines/Costs/Rest.	\$30/hour	
C. DISTRICT COURT		
1. Misdemeanors	\$30/hour	\$750 threshold
2. Fines/Costs/Rest.	\$30/hour	
D. FAMILY COURT		
1. Guardians ad litem	\$30/hour	

2. Dependency/neglect/abuse and wayward/delinquent	\$30/hour	\$1,000 threshold
3. Termination of parental rights cases	\$30/hour	\$1,500 threshold
4. Adult Criminal Cases/ Jury Trials	\$35/hour	\$2,500 threshold
5. Reviews	\$60 flat fee per review, to include preparation, waiting, and court time	
6. Arraignments	\$30/hour	In the event of multiple arraignments, no more than a total of \$100 for all arraignments
7. Child/Spousal Support	\$30/hour	

E. WORKERS' COMPENSATION COURT

1. Pro-se appointments	\$750 flat fee per case
2. Guardians ad litem	\$750 flat fee per case

This fee schedule shall be reviewed biannually.

This Executive Order shall take effect on October 1, 2000 and shall effectively supersede Executive Order No. 95-01 dated April 7, 1995; Executive Order No. 95-02 dated April 19, 1995; Executive Order No. 98-04 dated July 3, 1998; Executive Order No. 98-08 dated November 17, 1998; Executive Order No. 99-08 dated November 22, 1999; and Executive Order No. 2000-01 dated July 10, 2000.

Entered as an Executive Order of this court this 13th day of September 2000.

ENTER:

By Order,

S/S _____
Joseph R. Weisberger
Chief Justice

S/S _____
Clerk